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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,078	06/28/2001	Harriet G. Coverston	P6607	6570
22852	7590	09/24/2004	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 1300 I STREET, NW WASHINGTON, DC 20005			GODDARD, BRIAN D	
			ART UNIT	PAPER NUMBER
			2171	

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/894,078

Applicant(s)

COVERSTON ET AL.

Examiner

Brian Goddard

Art Unit

2171

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☐ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1,3-19,21-37 and 39-54.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_  
10. ☐ Other: \_\_\_\_\_

  
SAFET METJAHIC  
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Continuation of 5. does NOT place the application in condition for allowance because: Applicants' arguments are not persuasive.

Referring to applicants' remarks on pages 17-19 regarding the Section 103 rejection of claim 2 (the subject matter of which is proposedly added to independent claim 1 by this proposed amendment): Applicants argued that Cabrera's buffer header [arguably the 'stub file'] of Fig. 5A is not stored in Cabrera's primary storage as required by the claim, but is instead stored elsewhere. Applicants further argued that Cabrera's buffer header of Fig. 5A is not a 'stub file' as referred to in column 1 of Cabrera. The examiner disagrees for the following reasons: First, the portions of Cabrera's specification cited by applicants discuss data that is buffered from secondary storage TO the primary storage as discussed in column 4 with regard to Figure 1. Specifically, Cabrera's buffer headers (of Fig. 5A) and buffers are stored on the primary storage after being obtained from the secondary storage, and are retained as such until the migration procedure migrates the data buffers back to secondary storage. Figures 6 & 7 of Cabrera show that in steps 604 or 704, a check is made to see if requested data is already buffered at the primary storage. If so, the request is serviced from the primary storage (possibly from the stub file / buffer header). If not, the data must be obtained from the secondary storage. Second, although Cabrera does not explicitly equate the buffer header of Fig. 5A with the 'stub file' mentioned in column 1, it is the position of the Office that the buffer header IS a stub file as referred to in column 1 because it performs the same function described in column 1. That is, the buffer header contains information [the Buffer\_Ptr (510)] that allows the storage system to determine where the data in the file has been migrated. Therefore, the combination does disclose the claimed "storing in primary storage a partial version..."